

REMARKS

I. GENERAL

Applicants would like to express their appreciation to the Examiner for her attention to this application for organic photosensitive optoelectronic devices (herein "OPOD"s) which has now been made special pursuant to a petition under 37 C.F.R. §1.102. The specification has been amended. Claims 1-28 and 36-53 have been cancelled. Claims 54-63 have been added. Claims 29-35 and 54-63 are now currently under consideration in the above-identified application.

It is respectfully submitted that no new matter has been added. In light of the amendments and remarks herein, reconsideration and allowance of the Application are respectfully requested.

II. PROCEDURAL MATTERS

The Examiner noted that the inventors are listed in a different order on the Declaration versus the patent application transmittal form and stated that a substitute Declaration would be required should the application prove allowable. A substitute Declaration shall be provided after allowable subject has been identified.

The Examiner stated that pending patent applications which had been identified on a PTO-1449 form by the Applicants could not be cited on such form since the applications are not available to the general public and that the Examiner had struck such citations.

Applicants note that the patent applications in question were disclosed in compliance with the duty of disclosure so that the Examiner could determine the pertinence, if any, of these applications to the instant application. From the Office Action it is not readily apparent that the Examiner considered any disclosed applications which had not at the time matured into issued patents. Applicants respectfully submit that these applications have been properly disclosed in accord with PTO rules and must be considered of record by the Examiner. The Examiner is directed to MPEP § 609, subsection C(1), last paragraph and

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subsection D, last paragraph. These provisions make clear that a PTO-1449 is a proper means of disclosing pending applications to an Examiner and that upon such disclosure, an Examiner is required to obtain access to the disclosed applications in the Patent Office for consideration. The availability of those applications to the public is not relevant to the Examiner's responsibility to review those applications. The Examiner is respectfully requested to reconsider the prior position and review any disclosed applications in relation to the instant application. Upon such consideration Applicants request an initialed PTO-1449 or a PTO-892 form listing these applications.

III. THE 35 U.S.C. § 112 REJECTION SHOULD BE WITHDRAWN

Claims 1-53 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 1-28 and 36-53 have been canceled thus rendering the rejection of those claims moot.

Regarding claims 30 and 31, the term "dyes" has been replaced by "layers" with the transitional phrase "consists of" in a manner which should render those claims definite.

New claims 54-63 have been drafted incorporating limitations of previously presented claims and are discussed further below. Regarding definiteness, the new claims, where appropriate, utilize the transitional phrase "consist(s) of" rather than the term "is" which previously concerned the Examiner.

In light of the above amendments, Applicants submit that the pending claims are definite in accord with 35 U.S.C. § 112, second paragraph. Accordingly, withdrawal of all rejections under 35 U.S.C. § 112, second paragraph is respectfully requested.

IV. CLAIMS 29-35 AND 54-56 SHOULD BE ALLOWED

Claim 29 has been amended to make it independent by incorporating

limitations of original claim 1. Claims 30-35 and 54-56 depend directly or indirectly from claim 29. Claims 29-35 were previously rejected as anticipated under 35 U.S.C. § 102(b), or alternatively as obvious under 35 U.S.C. § 103(a) over only one reference. That reference is U.S. patent 5,350,459 to Suzuki et al. ("Suzuki et al."). None of the other references were deemed pertinent to the patentability of original claim 29.

Claim 29 has been made narrower than previous claim 29 by requiring "two transparent *metal substitute* electrode layers". The term "metal substitute" is defined in the Specification in the paragraph bridging pages 7 and 8. The examiner stated that Suzuki et al. did not require two transparent electrodes, but that this was suggested by Suzuki et al.'s "at least one" phrase used with respect to the transparent electrode. Further, the Examiner asserted that because the low end of the thickness range for Suzuki et al.'s "back electrode" is 50 Å and a gold electrode is described, such electrode would inherently be transparent.

Nonetheless, Applicants respectfully submit that Suzuki et al. nowhere teaches or suggests the use of two transparent metal substitute electrode layers. While Suzuki et al. describes a transparent electrode of indium tin oxide, tin oxide, or indium oxide (C. 40, l. 39-44), the "back electrode" is described as a high work function metal such as Au, Pt, Ni, Pd, Cu, Cr, or Ag (C. 43, l. 19-22). Thus, there is a teaching of at most one metal substitute electrode layer and not two. Further, since Suzuki et al. specifically prescribes certain electrode materials for the respective electrodes as suitable for that invention, it would be contrary to the teachings of Suzuki et al. to substitute other electrode materials. Accordingly, Suzuki et al. does not disclose the invention of claim 29 nor does it suggest that one could or should make the invention as claimed in claim 29. Since claims 30-35 and 54-56 depend from claim 21, they are also neither anticipated nor obvious so withdrawal of these rejections under § 102 and § 103 is respectfully requested.

V. **CLAIMS 57-63 SHOULD BE ALLOWED**

Claim 57 is a new claim which incorporates disjunctively the limitations of prior claims 25 and 26. That is, prior claims 25 and 26 were dependent claims directed to two different pairs of photosensitive layer combinations. Claim 57 is independent by including all

the parent claim limitations and covers prior claims 25 and 26 by specifying the pairs in Markush group format. New claims 58-63 depend from claim 57 directly or indirectly. Claims 25 and 26 were previously rejected as anticipated under 35 U.S.C. § 102(b) over only one reference. That reference is "Efficient Organic Photovoltaic Cells", pp. 243-258, *Mol. Cryst. Liq. Cryst.* 1994, Vol. 252 ("Karl et al."). None of the other references were deemed pertinent to original claims 25 and 26.

Karl et al. describes organic photovoltaic thin film structures having two electrodes. One electrode is described as "a conductive indium/tin oxide (ITO) electrode layer of ~80% transmittance in the visible" at p. 247, first paragraph, first sentence. The other electrode is described as "a typically T = 20% Ag electrode film". In the specification, at page 7, l. 10-11, "transparent" is defined to require at least 50% of the ambient electromagnetic radiation in relevant wavelengths to be transmitted. Therefore, as this term is defined in the instant application, Karl et al. does not disclose a device having two transparent electrode layers. Nor is there any suggestion to make the present invention having two transparent electrode layers. Accordingly, the invention of claims 57-63 is neither anticipated nor obvious in light of Karl et al. Withdrawal of the rejections under § 102 is respectfully requested.

VI. CONCLUSION

The present invention is new, non-obvious, and useful. Consideration and allowance of claims 30-35 and 54-63 are respectfully requested.

In summary, Applicants submit that the claimed subject matter of the instant application is patentable over the prior art and that all pending claims are now in condition for allowance. The Commissioner is hereby authorized to charge any additional fees that may be due on this application to Deposit Account No. 11-0600. An amendment cover sheet is enclosed for deposit account charging purposes. If there are any questions relating to the instant application, the Examiner is respectfully requested to telephone the undersigned.

Respectfully submitted,
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Dated: 7/26/00

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